



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, APRIL 2, 2024

CITY COUNCIL CHAMBER, 455 E. CALAVERAS BLVD, MILPITAS, CA

The City Council of the City of Milpitas convened on the regular City Council meeting day in a Meeting of the Milpitas City Council on April 2, 2024, in the City Council Chamber, 455 E. Calaveras Blvd, Milpitas, CA, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Regular City Council meeting to order at 5:38 PM and announced that Councilmember Barbadillo would be participating remotely from The Westin Palace, Madrid, Plaza de las Cortes, 7, Madrid, Spain 28014 pursuant to California Government Code Section 54953. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

ABSENT: Councilmember Barbadillo

PLEDGE OF ALLEGIANCE

Councilmember Lien led the pledge of allegiance.

INVOCATION

Mayor Montano presented the invocation by reading a poem entitled, "If trees could talk".

PRESENTATIONS

Mayor Montano, joined by members of the City Council, presented proclamations in recognition of Black April, Fair Housing Month, and Cesar Chavez. Certificates of recognition were presented to the Milpitas Community Concert Band.

ADJOURN TO CLOSED SESSION

City Attorney Mutalipassi briefed the City Council on items be heard in Closed Session.

There were no public comments.

The City Council adjourned to Closed Session at 5:59 PM.

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Rick Bolanos, LCW

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

The City Council reconvened at 7:04 PM

RECESS TO SPECIAL JOINT SESSION

The City Council recessed to a Special Joint Session at 7:04 PM.

The City Council reconvened at 8:15 pm.

CLOSED SESSION ANNOUNCEMENT:

City Attorney noted there was nothing to report out.

PUBLIC FORUM

There were the following speakers:

1. Maria Pereira
2. Kimberly Vo
3. Voltaire Montemayor

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest (Absent: Barbadillo). City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions (Absent: Barbadillo).

READING OF THE CITY COUNCIL CODE OF CONDUCT

Vice Mayor Chua read the code of conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Councilmember Lien/Councilmember Phan

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

NOES: None

ABSENT: Councilmember Barbadillo

CONSENT CALENDAR

There were no public speakers.

After discussion, motion: to approve the Consent Calendar.

Motion/Second: Councilmember Lien/Councilmember Phan

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

NOES: None

ABSENT: Councilmember Barbadillo

1. **Receive City Council Calendar of Meetings for April 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received City Council Calendar of Meetings for April 2024.

2. **Approve City Council City Council Meeting Minutes of March 19, 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Approved City Council Meeting minutes of March 19, 2024.

3. **Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received the list of anticipated agenda items for the next regular City Council meeting.

4. **Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Reviewed the list of items that have been requested by City Councilmembers and provided direction to staff as necessary.

5. **Consider Recommendations from Mayor Montano for Appointments to City Commissions (Contact: Mayor Montano, 408-586-3024)**

Received Mayor Montano's recommendations and confirmed the following appointments to City Commissions:

Senior Advisory Commission

1. Appoint Hui Chen as Alternate No. 2 with an unexpired term ending December 2026.

6. **Adopt a Resolution Releasing Unclaimed Checks with a Value Less than \$15.00 in the Aggregate Amount of \$141.91 (Staff Contact: Gabrielle Tsang, Acting Finance Director/Risk Manager, 408-586-3131)**

Adopted **Resolution No. 9310** releasing unclaimed checks with a value less than \$15.00 and transfer a total of \$141.91 in unclaimed checks to the General Fund.

7. **Adopt a Resolution Approving a Site Development Permit to Develop a New Two-Story Single-Family Residence on a Vacant 2.3-Acre Lot Located in the R1-H Single-family Residential Zoning District with a Hillside Combining District at 500 Vista Spring Court (Staff Contact: Jay Lee, Planning Director, 408-586-3077)**

Adopted **Resolution No. 9311** approving Site Development Permit No. SD23-0005 to allow the development of a new single-family residence at 500 Vista Spring Court, subject to the attached Conditions of Approval.

8. **Receive an Update on Storm Drain System Emergency Repairs and Improvements at Evans Road and Piedmont Creek and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

(1) Received an update on the storm drain system emergency repairs and improvements at Evans Road and Piedmont Creek; and (2) Determined by a four-fifths vote that the condition continues to constitute an emergency.

9. **Approve and Authorize the City Manager to Execute a Software License and Professional Services Agreement with CivicPlus LLC for SeeClickFix Subscription Services (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Approved and authorized the City Manager to execute a software license and professional services agreement with CivicPlus, LLC, for SeeClickFix subscription services for a total amount not-to-exceed \$121,048.24, subject to the annual appropriation of funds.

10. **Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to McKim Corporation for Street Resurfacing 2024 Project No. 4283, 4304, 4305; and Approve Budget Change Form (Staff Contact: Matt Cano, Assistant City Manager 408-586-3012; and**

Roberto Alonzo, PW Division Manager - Engineering, 408-586-3316)

Adopted **Resolution No. 9312** to approve project plans & specifications; awarded the construction contract to the lowest responsible, and responsive bidder, McKim Corporation, in the amount of \$3,328,125.94 for the Street Resurfacing 2024 Project No. 4283, 4304, 4305; authorize the City Manager to execute the construction contract with McKim Corporation; authorize the City Engineer to negotiate and execute Contract Change Order(s) in an aggregate amount not to exceed \$499,218.90 for the project; and approve the Budget Change Form to appropriate funding for CIP 4304 and CP 4305.

11. **Adopt a Resolution Granting Acceptance of the Street Resurfacing 2023 Project, Project No. 4283, 4303, & 4304, Authorizing the City Engineer to file a Notice of Completion and Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Matt Cano, Assistant City Manager 408-586-3012; and Michael Silveira, Public Works Engineer Division Manager 408-586-3303)**

Adopted **Resolution No. 9313** granting acceptance of the Street Resurfacing 2023 Project, Project No. 4283, 4303, & 4304, authorizing the City Engineer to file a Notice of Completion and issue a Notice of Final Acceptance after the one-year warranty.

12. **Adopt a Resolution to Approve Project Plans & Specifications, Award the Construction Contract with Mark Lee and Yong Kay, Inc., Dbay Construction Co., Authorize Design Services Agreement Amendment No. 1 to the with Callander Associates Landscape Architecture, Inc. for ARPA Parks Rehabilitation, Project Nos. 3500, 3501, 5110 (Staff: Christian Di Renzo, Public Works Director, 408.586.2602, Michael Silveira, PW Division Manager-Engineering, 408.586.3303)**

(1) Adopted **Resolution No. 9314** to approve project plans & specifications; (2) award the construction contract to the lowest responsible bidder submitting a responsive bid, Mark Lee and Yong Kay Inc, Dbay Construction Co., in a total amount of \$2,532,000; (3) authorized the City Manager to execute the construction contract with Mark Lee and Yong Kay Inc, Dbay Construction Co., (4) authorized the Public Works Director to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$380,000; and (5) approved and authorized the City Manager to execute Amendment No. 1 to the Design Services Agreement with Callander Associates Landscape Architecture, Inc. for Sinnott Park Playground design in the amount of \$75,000 for ARPA Parks Rehabilitation Phase 2, Project Nos. 3500, 3501, 5110.

PUBLIC HEARINGS

13. **Conduct a Public Hearing and Adopt a Resolution for the Summary Vacation of a Portion of the Existing Public Right-of-Way on Houret Court for the Benefit of a Residential Project Located at 1752 Houret Court (Staff Contact: Matt Cano, Assistant City Manager 408-586-3012; and Arthur Valderrama, Principal Civil Engineer, 408-586-3355)**

City Manager Thomas introduced the time. Public Works Engineering Division Manager Alonzo presented the report.

Mayor Montano opened the public hearing.

There were the following speakers:

1. Voltaire Montemayor

Mayor Montano closed the public hearing.

After discussion, motion: to adopt **Resolution No. 9315** for the summary vacation of a portion of the

existing Public Right-of-Way on Houret Court.

Motion/Second: Vice Mayor Chua/Councilmember Lien

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

NOES: None

ABSENT: Councilmember Barbadillo

LEADERSHIP AND SUPPORT SERVICES

14. Introduce Ordinance 314, Adding Chapter 15 (“Residential Trespass, Canvassing and Solicitation”) to Title V (“Public Health, Safety and Welfare”) of the Milpitas Municipal Code (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)

City Attorney Mutalipassi introduced the item. Assistant City Attorney Creech presented the report and provided additional background.

There were the following public speakers:

1. Loreto Quevedo Diamandaal
2. Voltaire Montemayor

City Attorney Mutalipassi announced a minor change to the ordinance language.

Councilmember Phan thanked the attorney's office for their work on the matter. He voiced reservations about the about the potential negative impact of restricting solicitation, particularly in terms of community image and democratic principles, emphasizing the importance of open dialogue and embracing differences. He questioned the effectiveness of current solicitation ordinances and suggested that targeting commercial properties and public spaces might be more beneficial. City Attorney Mutalipassi suggested that a commercial solicitation ordinance could be added as a separate prioritization item.

Vice Mayor Chua questioned the strategy for disseminating information to residents. Assistant City Attorney Creech deferred to the Public Information Officer for strategy on public education and outreach, such as social media posts, website updates, and potential press releases, and noted the ordinance itself includes provisions for educating solicitors and canvassers about the city's regulations. Vice Mayor Chua added that the next step should be addressing a commercial solicitation ordinance.

Mayor Montano spoke on the hazard of solicitation in the right of way.

Vice Mayor Chua made a motion: to waive the reading beyond the title and introduce Ordinance 314, which would add Chapter 15 to Title V of the Milpitas Municipal Code to prohibit the trespass of canvassers, solicitors and others on residential property, make findings of exemption from environmental review pursuant to CEQA Guidelines Sections 15061(b)(3), 15183, 15305, and 15378, and update the language on Title V-15-3.06 from forbidding to forbidding. Mayor Montano seconded the motion.

City Attorney Mutalipassi read aloud the title of the ordinance.

Upon a call for the question, the motion failed:
After discussion, motion: to (1) Following the City Attorney reading aloud the title, move to waive the reading beyond the title and introduce Ordinance 314, which would add Chapter 15 to Title V of the

Milpitas Municipal Code to prohibit the trespass of canvassers, solicitors and others on residential property; and (2) Make findings of exemption from environmental review pursuant to CEQA Guidelines Sections 15061(b)(3), 15183, 15305, and 15378.

Motion/Second: Vice Mayor Chua/Mayor Montano

Failed by the following:

AYES: Mayor Montano, Vice Mayor Chua

NOES: Councilmember Lien, Councilmember Phan

ABSENT: Councilmember Barbadillo

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

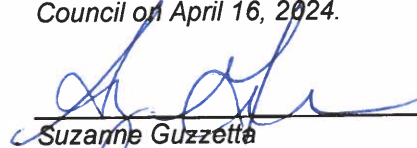
Vice Mayor Chua thanked the City Manager's Office and Police Chief Hernandez for the retail theft prevention forum, and thanked the City Manager's office for the community band certificates. She made a request to explore changing or enhancing the focus of the community advisory commission to add housing. There was consensus to add the item to the prioritization list (No: Montano; Absent: Barbadillo)

Councilmember Lien acknowledged the dedicated efforts of the Public Works department. She also noted the City's collaboration with the Rotary Club to plant a tree in honor of Arbor Day, despite encountering rainfall during the previous weekend.

ADJOURNMENT

Mayor Montano adjourned the meeting at 9:12 pm

The foregoing minutes were approved by the Milpitas City Council on April 16, 2024.



Suzanne Guzzetta
Milpitas City Clerk



SPECIAL JOINT MEETING OF THE MILPITAS CITY COUNCIL, CUPERTINO SANITATION DISTRICT, AND BURBANK SANITARY DISTRICT

MINUTES

TUESDAY, APRIL 2, 2024

CITY COUNCIL CHAMBER, 455 E. CALAVERAS BLVD, MILPITAS, CA

The City Council of the City of Milpitas convened on the City Council meeting day in a Special Joint Meeting of the Milpitas City Council, Cupertino Sanitary District, and Burbank Sanitary District on April 2, 2024, in the City Council Chamber, 455 E. Calaveras Blvd, Milpitas, CA, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Joint Special Meeting of the Milpitas City Council, Cupertino Sanitary District, and Burbank Sanitary District to order at 7:04 PM and announced that Councilmember Barbadillo would be participating remotely from The Westin Palace, Madrid, Plaza de las Cortes, 7, Madrid, Spain 28014 pursuant to California Government Code Section 54953, and both the Cupertino Sanitary District and Burbank Sanitary District were participating remotely from 20863 Stevens Creek Boulevard, Suite 100, Cupertino, CA 95014 Pursuant to California Government Code Section 54953. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

ABSENT: Councilmember Barbadillo

ADJOURN TO CLOSED SESSION

City Attorney Matalipassi introduced the item to be heard during Closed Session.

There were the following public speakers:

1. Voltaire Montemayor

The City Council adjourned to Closed Session at 7:08 PM.

(a) CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

Government Code § 54956.9

County Sanitation District 2-3, et al. v. City of San Jose, et al., Santa Clara Superior Court Case number 18CV325480

City as Plaintiff

Legal Counsel: Tom Boer, AnnMarie Mortimer, Robin Wall, Marc Hynes, Valerie Armento, Erica Gonzalez, and Michael Matalipassi

The City Council reconvened at 8:15 PM.

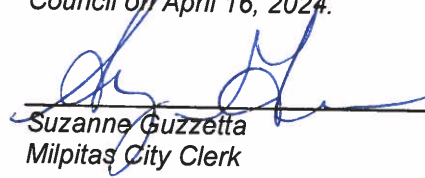
CLOSED SESSION ANNOUNCEMENT:

City Attorney Matalipassi noted there was nothing to report out from the Special Joint Meeting Closed Session.

ADJOURNMENT

Mayor Montano adjourned the Special Meeting at 8:17 PM.

The foregoing minutes were approved by the Milpitas City Council on April 16, 2024.



Suzanne Guzzetta
Milpitas City Clerk